

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL QUALIFICATIONS

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Inquiry Concerning a Judge,
No. 9

To: Judge Gerald S. Chargin

It appearing that since October 1, 1959, and at all times herein, you have been Judge of the Superior Court of Santa Clara County; and

Preliminary investigation having been made, during the course of which preliminary investigation you were afforded a reasonable opportunity to present such matters as you chose, and this Commission as a result of said preliminary investigation, having concluded that formal proceedings to inquire into the charges against you shall be instituted,

NOW, THEREFORE, you are hereby charged with (a) wilful misconduct in office and (b) conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

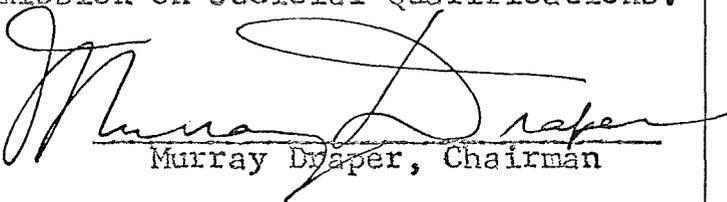
The specifications of the charges and the alleged facts upon which such charges are based are as follows:

1 On September 2, 1969, while you were sitting as judge
2 in Juvenile Division, Santa Clara County Superior Court, there
3 came before you a minor charged with the crime of incest in the
4 proceeding entitled, In the Matter of Paul Pete Casillas, Jr.,
5 No. 40331. A complete copy of the transcript of the proceeding
6 on that occasion is attached as Exhibit "A". You conducted the
7 proceeding and made the statements attributed to "THE COURT"
8 in said transcript. On or about September 26, 1969 you issued
9 a public statement of which a copy is attached as Exhibit "B".
10 The foregoing conduct and statements by you constitute wilful
11 misconduct in office and conduct prejudicial to the administra-
12 tion of justice that brings the judicial office into disrepute.

13 You have the right to file a written answer to the
14 charges against you within 15 days after service of this notice
15 upon you with the Commission on Judicial Qualifications, Room
16 3041 State Building, 350 McAllister Street, San Francisco,
17 California 94102. Such answer shall be verified, shall conform
18 in style to subdivision (c) of Rule 15 of the Rules on Appeal
19 of the California Rules of Court, and shall consist of an
20 original and 11 legible copies.

21
22 By order of the Commission on Judicial Qualifications.

23
24 Dated: December 18, 1969

25 
Murray Draper, Chairman

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

JUVENILE DIVISION

HONORABLE GERALD S. CHARGIN, JUDGE

COURTROOM NO. 1

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In the Matter of

PAUL PETE CASILLAS, JR.,

a minor.

No. 40331

--oOo--

TRANSCRIPT OF PROCEEDINGS

San Jose, California

September 2, 1969

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APPEARANCES:

For the Minor:

FRED LUCERO, ESQ.,
Deputy Public Defender

For the Probation Department:

WILLIAM TAPOGNA, ESQ.,
Court Probation Officer

Official Court Reporter:

SUSAN K. STRAHM, C.S.R.

EXHIBIT "A" - 1

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PROCEEDINGS

MR. TAPOGNA: Your Honor, appearing before the Court at this time is Paul Casillas with his parents, Mr. and Mrs. Casillas. Paul is being represented by Mr. Lucero from the Public Defender's office.

Also present is Miss Fran Coca from the Welfare Department in the third row and her supervisor, Mr. Bernard Connelly, from the Welfare Department.

THE COURT: All right. This is the time regularly set for the hearing of this matter. Under the law, I wish to advise you of your legal rights. You are represented by the Public Defender's office. You have a right to call witnesses on your behalf, and you have the right to cross-examine any witnesses who testify against you. The minor has a right to remain silent. Anything that you say may be used against you.

Are you willing to proceed with the hearing at this time?

MR. LUCERO: Yes.

THE MINOR: Yes, sir.

THE COURT: All right. We will read the Petition to you, Paul. Pay attention because you will be asked to admit or deny the allegations.

Please read the Petition.

THE CLERK: Paul Pete Casillas, Jr., is appearing before the Court on a Petition drawn by George W. Lazarus,

1 filed August 13, 1969, in which the Petitioner alleges the
2 person whose name, address and age are shown in the above
3 caption is under 21 years of age. This person comes within
4 the provisions of Section 602 of the Juvenile Court Law of
5 California, in that in the County of Santa Clara, State of
6 California, during the month of December, A.D., 1968, a
7 felony, to wit, a violation of California Penal Code Section
8 285, incest, was committed by the above-named minor as follows,
9 to wit: The said minor did unlawfully accomplish an act of
10 sexual intercourse with his sister.

11 Certified from the Justice Court for the Gilroy-
12 Morgan Hill Judicial District on the 25th day of July, 1969.

13 THE COURT: All right. Will the minor and his
14 parents please stand up and raise your right hand to testify
15 in case you care to testify in this matter.

16 PAUL PETE CASILLAS, JR.,

17 and

18 MR. AND MRS. PAUL PETE CASILLAS, SR.,

19 called as witnesses on behalf of the minor, were duly sworn
20 to tell the truth, the whole truth and nothing but the truth.

21 THE COURT: All right. Be seated.

22 Now, young man, you've heard this Petition read to
23 you, Paul. It, in effect, charges you that during the month
24 of December of last year, 1968, a felony was committed by you,
25 in that you did unlawfully accomplish an act of sexual
26 intercourse with your sister.

1 Before you answer, consult your attorney. Do you
2 admit or deny the allegations?

3 (Discussion off the record between the minor and his
4 attorney.)

5 THE MINOR: Yes.

6 THE COURT: All right. In view of the admission by
7 the minor, the Court determines that the allegations of the
8 Petition are true, and the minor comes within the provisions
9 of Section 602 of the Juvenile Court Law.

10 I have before me a report prepared by the probation
11 officer and its recommendation, which I don't go along with.
12 But I guess there ought to be some other way -- just sending
13 you to some relatives isn't the answer on this kind of charge.

14 Counsel, what do you have to say about this?

15 MR. LUCERO: Well, Your Honor, this is the first
16 time that this youngster has been referred to the Probation
17 Department for any violation. He seems to be doing well in
18 school. He's not a behavior problem at the school. He has
19 never given any difficulty at home.

20 I think that perhaps the recommendation of the
21 Probation Department is in line with the needs of this
22 youngster and that he's not violent. He's not taking things
23 from people, destructive of property. Separation of the
24 family -- him from the other family members is probably the
25 answer to this particular violation, although I don't think
26 that the youngster, in view of what has transpired since then,

1 is going to reengage in that type of activity.

2 THE COURT: There is some indication that you more or
3 less didn't think that it was against the law or was improper.
4 Haven't you had any moral training? Have you and your family
5 gone to church?

6 THE MINOR: Yes, sir.

7 THE COURT: Don't you know that things like this are
8 terribly wrong? This is one of the worst crimes that a person
9 can commit. I just get so disgusted that I just figure what is
10 the use? You are just an animal. You are lower than an
11 animal. Even animals don't do that. You are pretty low.

12 I don't know why your parents haven't been able to
13 teach you anything or train you. Mexican people, after 13
14 years of age, it's perfectly all right to go out and act like
15 an animal. It's not even right to do that to a stranger,
16 let alone a member of your own family. I don't have much
17 hope for you. You will probably end up in State's Prison
18 before you are 25, and that's where you belong, any how.
19 There is nothing much you can do.

20 I think you haven't got any moral principles. You
21 won't acquire anything. Your parents won't teach you what is
22 right or wrong and won't watch out.

23 Apparently your sister is pregnant; is that right?

24 THE MINOR'S FATHER, MR. CASILLAS: Yes.

25 THE COURT: It's a fine situation. How old is she?

26 THE MINOR'S MOTHER, MRS. CASILLAS: Fifteen.

1 THE COURT: Well, probably she will have a half a
2 dozen children and three or four marriages before she is 18.

3 The County will have to take care of you. You are
4 no particular good to anybody. We ought to send you out of
5 the country -- send you back to Mexico. You belong in prison
6 for the rest of your life for doing things of this kind. You
7 ought to commit suicide. That's what I think of people of
8 this kind. You are lower than animals and haven't the right
9 to live in organized society -- just miserable, lousy,
10 rotten people.

11 There is nothing we can do with you. You expect
12 the County to take care of you. Maybe Hitler was right. The
13 animals in our society probably ought to be destroyed because
14 they have no right to live among human beings. If you refuse
15 to act like a human being, then, you don't belong among the
16 society of human beings.

17 MR. LUCERO: Your Honor, I don't think I can sit
18 here and listen to that sort of thing.

19 THE COURT: You are going to have to listen to it
20 because I consider this a very vulgar, rotten human being.

21 MR. LUCERO: The Court is indicting the whole
22 Mexican group.

23 THE COURT: When they are 10 or 12 years of age,
24 going out and having intercourse with anybody without any
25 moral training -- they don't even understand the Ten
26 Commandments. That's all. Apparently, they don't want to.

1 So if you want to act like that, the County has a
2 system of taking care of them. They don't care about that.
3 They have no personal self-respect.

4 MR. LUCERO: The Court ought to look at this
5 youngster and deal with this youngster's case.

6 THE COURT: All right. That's what I a going to do.
7 The family should be able to control this boy and the young
8 girl.

9 MR. LUCERO: What appalls me is that the Court is
10 saying that Hitler was right in genocide.

11 THE COURT: What are we going to do with the mad
12 dogs of our society? Either we have to kill them or send them
13 to an institution or place them out of the hands of good
14 people because that's the theory -- one of the theories of
15 punishment is if they get to the position that they want to
16 act like mad dogs, then, we have to separate them from our
17 society.

18 Well, I will go along with the recommendation. You
19 will learn in time or else you will have to pay for the
20 penalty with the law because the law grinds slowly but
21 exceedingly well. If you are going to be a law violator --
22 you have to make up your mind whether you are going to observe
23 the law or not. If you can't observe the law, then, you have
24 to be put away.

25 Said minor will be adjudged a ward of the Juvenile
26 Court in and for the County of Santa Clara, that the

1 welfare of the minor requires that his physical custody be
2 taken from his parents, said minor be committed to the care,
3 custody and control of the relative home placement, with
4 approval of placement in the home of his grandmother.

5 Do you think she can handle the boy? Do you think
6 she can take care of him?

7 MRS. CASILLAS: Yes.

8 MR. CASILLAS, SR.: I think so.

9 THE COURT: All right.

10 -- in Gilroy, under the supervision of the probation
11 officer, that said minor obey all rules and regulations of
12 the relative home.

13 Now, when you get down there with your grandmother,
14 you have to pay attention to her because she is going to act
15 as your parent. Mind her. After school also stay home and
16 keep out of trouble. Do better in school.

17 It might be a good idea to read the Ten
18 Commandments to find out what life is all about and what
19 duties the Supreme Being imposes on every one of us to act
20 like ordinary human beings and not like a pig.

21 All right. That's all.

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STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.

I, SUSAN K. STRAHM, do hereby certify that the foregoing is a full, true and correct transcript of the proceedings had in the within-entitled action taken on the 2nd day of September, 1969; that it is a full, true and correct transcript of the evidence offered and received, instructions, acts and statements of the Court, also all objections and exceptions of counsel, and all matters to which the same relate; that I reported the same in stenotype, being the qualified and acting Official Court Reporter of the Superior Court of the State of California, in and for the County of Santa Clara, appointed to said Court, and thereafter had the same transcribed into typewriting as herein appears.

Dated: This 29th day of September, 1969.

/s/ Susan K. Strahm
SUSAN K. STRAHM, C.S.R.

1 In response to certain comments and allegations
2 made regarding remarks which were made by me during the
3 course of a recent Juvenile hearing, I wish to state as
4 follows:

5 I am presently the Presiding Judge of the Santa
6 Clara County Juvenile Court, Juvenile Court Proceedings by
7 law in California are private for the protection of the minor
8 and the family involved. Only those persons directly concerned
9 are allowed to be present; for this reason it is difficult
10 to comment as fully and freely as otherwise might be the
11 case.

12 It has come to my attention that some of the copies
13 of these excerpts of my statements are being widely circu-
14 lated with the name of the youth involved printed on them.
15 This is not only a disservice to the youth and family
16 involved, but may involve a violation of the law.

17 However, I wish to respond directly to some
18 aspects of these remarks and it is apparent to me in retro-
19 spect and in reading the remarks out of context, that they
20 do indeed appear intemperate and quite strong. For what-
21 ever unfavorable connotation that is being put on them by
22 their readers, I am regretful!

23 But, I am compelled to set the record straight
24 in this regard: the case involved the admitted unnatural
25 crime of incest between a 17 year old boy and his 15 year
26 old sister, who is now pregnant. Without revealing more

1 of the facts, it was a situation which was so revolting it
2 offended my sense of morality and conscience. It is also
3 a function of a Juvenile Court Judge to lecture those young
4 people unfortunate enough to be before him, and it is an
5 accepted fact that these lectures are stated in harsh terms
6 to impress upon the mind of the youths the seriousness of
7 the situation in which they find themselves. Sometimes, the
8 words of the lecture are purposely accentuated and exaggerated.
9 However, it is to the ultimate disposition of the case that
10 one must look! In this case, the youth was returned to his
11 Grandmother, as a ward of the Court under supervision of
12 the Juvenile Probation Department, which followed the recom-
13 mendation of the Juvenile Probation Department. Suffice it
14 to say, that much harsher alternative dispositions were
15 available to me.

16 I also wish to state that if the remarks are being
17 interpreted so as to cast me as biased or prejudiced as
18 against any ethnic or racial group, it is simply not so!

19 I am pleased to say that my entire adult life, both
20 in the law and on the Superior Court bench, has been an effort
21 and a striving for justice for all.

22 The most recent example of this, is my nomination
23 of the only Mexican-American individual presently serving
24 on the County Grand Jury.

25 GERALD CHARGIN,
26 Superior Court Judge

2 Cal.3d 617
471 P.2d 29, 87 Cal.Rptr. 709
(Cite as: 2 Cal.3d 617)

**In re GERALD S. CHARGIN, a Judge of the
Superior Court, on Censure.**

S.F. No. 22741.

Supreme Court of California, In Bank.

June 10, 1970.

SUMMARY

The Commission on Judicial Qualifications made findings of fact and concluded, after review of proceedings before special masters, and a hearing, that the remarks of a superior court judge, made during the course of a juvenile hearing over which he presided constituted "conduct prejudicial to the administration of justice that brings the judicial office into disrepute." The commission recommended that the judge be publicly censured.

The Supreme Court adopted the recommendation and by its order publicly censured the judge. (Opinion by the Court.)

THE COURT.

The Commission on Judicial Qualifications reviewed the report of the special masters appointed pursuant to rule 907 of California Rules of Court, documents filed by the examiner and Judge Chargin, and the record of the evidentiary hearing before the special masters at which it was established that Judge

Chargin during the course of a juvenile court hearing over which he presided made certain improper and inflammatory remarks reflecting upon the juvenile's family and members of his ethnic group. Those remarks have been the subject of critical newspaper editorials and resolutions of public bodies.

At the evidentiary hearing the surrounding facts and circumstances were shown, and letters and testimony were received favorable to Judge Chargin, indicating that the remarks were foreign to his customary judicial attitude and conduct. *618

Following its review of the above matters and a hearing before it, the commission made certain findings of fact, concluded that the remarks of Judge Chargin constituted "conduct prejudicial to the administration of justice that brings the judicial office into disrepute" (see art. VI, § 18, subd. (c), Cal. Const.), and recommended that Judge Chargin be publicly censured. The commission filed with this court the record and recommendation. This court, after reviewing the entire record and considering all the facts and circumstances, has concluded that the recommendation of the commission should be adopted. Accordingly, and by this order Judge Chargin is hereby publicly censured. *619

Cal., 1970.

In re Chargin

END OF DOCUMENT